

STATE OF MISSOURI ex rel.
JEREMIAH W. (“JAY”) NIXON,
Attorney General, the MISSOURI
CLEAN WATER COMMISSION,
and the MISSOURI DEPARTMENT
OF NATURAL RESOURCES,

Plaintiff,

Case No. 02CV316157

MIKE SMETHERS, ANTHONY B.
MONSEES, WILLIAM “PAT” MITCHELL,
WATER LABORATORY COMPANY, INC.,
and WEST 16TH STREET SEWER
COMPANY, INC.

Defendant.

WHEREAS, Plaintiff, State of Missouri, on behalf of the Missouri Clean Water Commission and the Missouri Department of Natural Resources (“the Department”), filed a petition herein alleging that Defendants, Mike Smethers, Anthony B. Monsees, William “Pat” Mitchell, Water Laboratory Company, Inc. and West 16th Street Sewer Company, Inc. violated and continue to violate the Missouri Clean Water Law, Chapter 644, RSMo, and the Missouri State Operating Permit ("MSOP") issued to it by plaintiff, which authorizes discharges of wastewater from its wastewater treatment plant into the unnamed tributary of Coon Creek, waters of the State of Missouri; and

WHEREAS, the plaintiff and defendants William “Pat” Mitchell and Water Laboratory Company, Inc.(hereinafter “defendants”) have consented, without trial or adjudication of any issue of fact or law herein, to the entry of this Consent Order;

NOW THEREFORE, it is ORDERED, ADJUDGED and DECREED as follows:

1. The Court has read plaintiff's petition and has been fully advised of its premises. The Court is satisfied that the provisions of this Consent Judgment amicably resolves the issues cognizable under §§ 644.006 to 644.141, RSMo, and the Court finds that this Consent Judgment does protect the public interest.

2. For purposes of this Consent Judgment, this Court has jurisdiction over the subject matter of this action and over the parties consenting hereto pursuant to Chapter 644, RSMo.

3. The Provisions of this Consent Judgment shall apply to and be binding upon the parties executing this Consent Judgment, their officers, agents, successors and assigns.

4. This Consent Order fully resolves the State's and the Department's claims against defendants, its officials, employees and agents, including claims for civil penalties and injunctive relief for violations of the Missouri Clean Water Law at the wastewater treatment facility as contained in plaintiff's Petition.

PENALTY

5. As and for civil penalties for the violations referred to Plaintiff's Petition, defendants William “Pat” Mitchell and Water Laboratory Company, Inc. shall deliver to the Attorney General of the State of Missouri a check made payable to the “Pettis County Treasurer as Trustee for the Pettis County School Fund” in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00), immediately upon entry of this Consent Judgment.

COMPLIANCE

6. Defendants William “Pat” Mitchell and Water Laboratory Company, Inc. are ordered and agree to comply with the Missouri Clean Water Law and implementing regulations for any and all future operations. If defendants William “Pat” Mitchell or Water Laboratory Company, Inc. violate the Missouri Clean Water Law or implementing regulations in Pettis County in the future, defendants William “Pat” Mitchell and Water Laboratory Company, Inc. shall be subject to any sanction available to this Court.

GENERAL TERMS

7. This Consent Judgment is not and shall not be interpreted to be a permit, or modification of existing MSOP or National Pollution Discharge Elimination System (“NPDES”) permits, nor shall it in any way relieve defendants of its obligation to obtain MSOP permits or NPDES permits, and comply with the requirements of its current MSOP and NPDES permits or with any other federal or state law or regulation. Any new permits or modification of existing permits must be complied with in accordance with the applicable federal or state laws and regulations.

8. The Plaintiff does not, by its consent to the entry of this Judgment, warrant or aver in any manner that defendants complete compliance with this Judgment, will result in compliance with the provisions of the Law, or in compliance with a MSOP permit issued to defendants. Defendants shall remain solely responsible for compliance with the terms of this Judgment, and its MSOP permits.

9. Performance of the terms of this Consent Judgment by defendants is not conditioned upon receipt of any federal or state grant funds, nor is it conditional on defendants receipt of monetary loans from Missouri’s State Revolving Fund. In addition, performance is not

excused by the unavailability of any federal or state grant funds, nor is performance excused by the unavailability of a monetary loan from Missouri's State Revolving Fund.

10. Nothing in this Consent Judgment precludes the State of Missouri from seeking applicable or legal relief for future violations of the Missouri Clean Water Law and regulations.

11. Each party shall bear its own costs and attorney fees in this action. Defendants shall pay court costs.

12. The Court shall retain jurisdiction to enforce the terms and conditions of this Consent Judgment and to resolve disputes arising hereunder as may be necessary or appropriate.

13. This Consent Judgment shall expire three (3) years after entry.

WE HEREBY CONSENT to the entry of this Judgment:

Date

By: _____
WILLIAM "PAT" MITCHELL

Date

By: _____
WATER LABORATORY COMPANY, INC.

JEREMIAH W. ("JAY") NIXON
Attorney General of Missouri

Date

By: _____
HARRY D. BOZOIAN
Assistant Attorney General

MISSOURI DEPARTMENT OF
NATURAL RESOURCES

Date

By: _____
Scott B. Totten, Director
Water Quality and Soil Conservation Division

IT IS SO ORDERED.

CIRCUIT JUDGE

Dated: _____